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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,653	03/01/2004	Wing K. Lee	IDF 2532 (4000-15300)	9564
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SPRINT 6391 SPRINT PARKWAY KSOPHT0101-Z2100 OVERLAND PARK, KS 66251-2100			EXAMINER ALLEN, WILLIAM J	
			ART UNIT	PAPER NUMBER
			3625	
			MAIL DATE	DELIVERY MODE
			08/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/790,653	LEE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	William J. Allen	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 8-15, 17, 18, 20-26 and 28-34 is/are pending in the application.
- 4a) Of the above claim(s) 8-15, 17, 25, 26, 28, 29 and 34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18, 20-24 and 30-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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## **DETAILED ACTION**

### ***Prosecution History Summary***

Claims 8-15, 17, 18, 20-26, and 28-34 are pending.

Claims 8-15, 17, 25-26, 28-29, and 34 are hereby withdrawn.

Claims 18, 20-24, and 30-33 are rejected as set forth below.

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/5/2007 has been entered.

*Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 8-15, 17, 25-26, 28-29, and 34, drawn to a web services marketplace for providers to offer web services, classified in class 705, subclass 26.
  - II. Claims 18, 20-24, and 30-33, drawn to a method for selling web services based on a quality of service, classified in class 705, subclass 26.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination II has separate utility such as using the at least one of the web services through transactions with a proxy and recording information on the transactions on the proxy. See MPEP § 806.05(d).

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

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During a telephone conversation with Michael Piper on 6/30/2007 a provisional election was made without traverse to prosecute the invention of Group II, claims 18, 20-24, and 30-33. Affirmation of this election must be made by applicant in replying to this Office action. Claims 8-15, 17, 25-26, 28-29, and 34 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

***Response to Arguments***

Applicant's arguments filed 6/5/2007 have been considered but are moot in view of the new ground(s) of rejection as Zang is now relied upon to teach *using the at least one web services through transactions with a proxy*. Applicant's amendment has necessitated the new grounds of rejection.

Additionally, the Examiner notes that Pallister does indeed teach where at least one provider *offers multiple combinations of criteria including the quality of service*. Upon evaluation of the first bids, a further iteration is performed in order to obtain a second round of bids from the service providers (i.e. the user receives a second offer with a differing combination of criteria). The first and second bids from the second provider with differing criteria constitute *multiple offerings* by the web service provider (see at least: 0029-0032).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**3. Claims 18, 23-24, and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pallister et al. (US 20030195813) in view of Zang et al. (US 20040220910).**

**Regarding claim 18,** Pallister teaches a system and method for selling web services based on the quality of service comprising:

(see at least: abstract, Fig. 1);

*offering, by a plurality of providers, web services based on a quality of service for each of the web service* (see at least: abstract, 0028, Fig. 1-3, claim 16); The Examiner notes that accuracy, reliability, bandwidth, expected capacity, security, etc. represent qualities of service.

*wherein at least one of the plurality of providers offers multiple combinations of criteria including the quality of service for one or more of the web services* (see at least: 0028-0029, 0032 (note final 5 lines)); The Examiner notes that, upon evaluation of the bids, a further iteration is performed in order to obtain a second round of bids from the service providers (i.e. the user receives a second offer with a differing combination of

criteria). The first and second bids from the second provider with differing criteria constitute *multiple offerings* by the web service provider obtaining, by at least one customer, at least one of the web services having the quality of service for the at least one of the web services from a first provider (see at least: 0027, 0029-0030, Fig. 2-3).

recording information on the transaction for the at least one web service on the proxy (see at least: 0018-0019, Fig. 1). The Examiner notes that, because a customer has a profile of a desired web service inputted to the server 200, and the server 200 returns web services available from web service providers who match the profile, Pallister therein teaches at least the temporary storage of the request by the server 200 in order to make such comparisons and return matching results.

Though Pallister teaches at least the temporary storage of the request information (i.e. *transaction information*), Pallister does not expressly teach *using the at least one of the web services through transaction with a proxy* and further where the request information stored corresponds to *the quality of service for the at least one web service*.

In the same field of endeavor, Zang teaches a method and system utilizing various agents for the selection of web services from a UDDI database (see at least: abstract, 0170). Of specific importance in Zang is the web service invoker and web service logging/caching database, which act as a proxy to invoke web services for a client and retrieve data from the logging/caching database regarding the estimated quality (see at least: 0170, Fig. 5). Thereby, Zang teaches *using*



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*the at least one of the web services through transaction with a proxy* and further where the information stored corresponds to *the quality of service for the at least one web service*.

It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Pallister to have included recording *information corresponding to the quality of service for at least one web service* as taught by Zang in order to provide a system that not only satisfies the individual business requirements but also retrieves the best fit for the overall composed business process, thereby optimizing the business process (see at least: Zang abstract, 0011, 0028).

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Regarding claim 23-24 and 30-31, Pallister in view of Zang teaches:

(23) *wherein the web services are further defined as based on a Web Services standard*  
(see at least: Pallister, abstract, 0005, 0007, 0019, claim 4).

(24) *wherein the web services are further defined as reusable components operable for providing a service via the Internet* (see at least: Pallister, 0004-0005, 0014-0015, 0020).

(30) *providing the use of the at least one of the web services obtained from the first of the providers in accordance with a configuration* (see at least: abstract, 0027, 0029-0030, Fig. 2 (note P280)).

(31) *obtaining, by the at least one customer, the at least one of the web services from a second of the providers and providing the use of at least one of the web services obtained from the second of the providers in accordance with the configuration* (see at least: abstract, 0027-0030, Fig. 2 (note P230 and P250). The Examiner notes that a customer may engage the web service from a multiplicity of providers using a bid process (i.e. from a first, second, third, etc. provider).

4. **Claim 20 and 32-33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pallister in view of Zang, as applied to claims 18 and 23-24, and in further view of Hartsell et al. (US 20020049608).**

**Regarding claim 20,** Pallister in view of Zang teaches all of the above as noted and further teaches providing different qualities of service with a wide variety of offerings. (see at least: 0007, 0024-0025, 0033). Pallister, however, does not expressly teach *wherein at least one of the web services are offered by one of the providers at a first price based on a first quality and a second price based on a second quality*. Hartsell teaches *wherein at least one of the web services are offered by one of the providers at a first price based on a first quality and a second price based on a second quality* (see at least: 0013, 0101, 0326). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Pallister in view of Zang to have included *wherein at least one of the web services are offered by one of the providers at a first price based on a first quality and a second price based on a second quality* as taught by Hartsell in order to provide an overall network infrastructure the ability to provide differentiated services in accordance with business objectives (see at least: Hartsell, abstract, 0013).

**Regarding claims 32-33,** Pallister in view of Zang teaches all of the above as noted and further teaches where providers are compensated for the services and functionality they provide (see at least: Pallister, 0005). Pallister in view of Zang, however, does not expressly teach *enabling the at least one customer to pay the first of the providers for at least one of the web*

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*services wherein the payment corresponds with the information recorded on the proxy.* Hartsell teaches *enabling the at least on customer to pay the first of the providers for at least one of the web services wherein the payment corresponds with the information recorded on the proxy* (seen at least: 0012, 0015, 0095, 0302, 0325, Fig. 7). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Pallister in view of Zang to have included *enabling the at least on customer to pay the first of the providers for at least one of the web services wherein the payment corresponds with the information recorded on the proxy* as taught by Hartsell in order to provide competitive service differentiation and enhanced revenue generation (see at least: Hartsell, 0302).

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5. **Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pallister in view of Zang, as applied to claims 18 and 23-24, and in further view of Powers (US 20020035521).**

**Regarding claim 21**, Pallister in view of Zang teaches all of the above as noted and further teaches receiving bid offers (i.e. quotes) for web services through an auction system (see at least Fig. 2-3). Pallister also teaches where the user identifies criteria such as price or various qualities of service which they feel are most important (see at least: 0028, claim 16). Pallister however, does not expressly teach *wherein at least one of the web services are offered by one of the providers at an undetermined quality of service* Powers teaches where a price quote is received from a service center with a price and time stamp, wherein a user can select to be shown only the quote with the lowest price (i.e. the determining factor is only price). Thereby an offer is received and selected from a service center for which a quality of service has not been determined and price is the only determining factor (see at least: 0045, 0047, Fig. 2B). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Pallister in view of Zang to have included *wherein at least one of the web services are offered by one of the providers at an undetermined quality of service* as taught by Powers in order to receive and sort offers from service providers that best fit predetermined criteria of a user (see at least: Powers, 0047; Pallister, 0017, 0020).

6. **Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pallister in view of Zang, as applied to claims 18 and 23-24, and in further view of Lao.**

**Regarding claim 22**, Pallister in view of Zang teaches all of the above as noted and further teaches binding a customer to a web service and allowing limited use, pay per use, etc. of the obtained web service by the customer (see at least: 0020, 0030). Pallister, however, does not expressly teach providing *a license agreement accessible via the electronic marketplace system, the license agreement related to use by the customer of the web service obtained from the provider*. Lao teaches providing *a license agreement accessible via the electronic marketplace system, the license agreement related to use by the customer of the web service obtained from the provider* (see at least: abstract, 0003, 0007, 0038, 0041-0050, 0055-0058, 0062, 0066, Fig. 2-3, 6, and 11). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Pallister in view of Zang to have included *a license agreement accessible via the electronic marketplace system, the license agreement related to use by the customer of the web service obtained from the provider* as taught by Lao in order to provide an improved system and method for licensing of networked services, such as Web services, and the like (see at least: Lao, 0007).

*Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US 20030212587 discloses an apparatus and methods for coordinating Web services using role based interpretation of coordination plans
- US 20040030627 discloses a web services broker

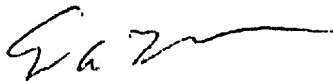
Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Allen whose telephone number is (571) 272-1443. The examiner can normally be reached on 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William J. Allen  
Patent Examiner  
August 1, 2007

A handwritten signature in black ink, appearing to read 'Mark Fadok', with a stylized flourish at the end.

Mark Fadok

Primary Examiner